IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 2019 of 1997

Between:

A.Ramalinga Reddy s/o Papa Reddy
R/o Varshakonda Village, Ibrahimpatnam Mandal ,
Karimnagar Dist.

..... PETITIONER

AND

1 District Collector Karimanagar Dist.
2 SubCollector Jagitial
Karimanagar Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declaring the action of the 1st respondent in initiating land acquisition proceedings in file No.H23150/96 dt 29-9-96 in respect of the petitioner's agricultural Acs..4.05 guntas situated at VArshakonda Village, Ibrahimpatnam Mandal , Karimanagar as arbitarary and illegal and pass.

Counsel for the Petitioner: MR.S.SATYAM REDDY

Counsel for the Respondent s: GP FOR SOCIAL WELFARE

The Court Made the Following :

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ORDER:

This writ petition is filed by the petitioner questioning the acquisition of the land of the petitioner in an extent of Ac.4.05 guntas in Survey Nos. 608 and 689 situated in Varshakonda village, Ibrahimpatnam Mandal, Karimnagar District.

2. According to the petitioner, the respondents did not properly apply their mind as to the availability of the Government land in Survey No.570, which is very much available for utilization for the purpose of providing house sites to weaker sections. Without considering the availability of the said site, the 1st Respondent has resorted to acquisition of the petitioner's land at the cost of the Public Exchequer.

3. The learned counsel for the petitioner also contended that originally the respondents have proposed to acquire the land in S.Nos.2, 3,9,10 and 587 of the village, but at the instance of the local M.L.A, the respondents have dropped the said proposals and they have resorted to acquire the land of the petitioner. In view of the above *mala fide* actions of the respondents, the proposed acquisition is liable to be quashed.

4. The learned Government Pleader, on the other hand, opposed the contentions of the petitioner. Though it was not specifically referred in the counter as to the non-availability of the Government land in Survey No.570, but, however, the learned Government Pleader sought to contend that no Government land is available, which can be used for providing house sites. Therefore, he sought to vacate the interim order and dismiss the writ petition.

5. Heard the learned counsel for both the parties and considered the material on record.

6. Admittedly, the respondents proposed to acquire the land of the petitioner in an extent of Ac.4.05 guntas in Survey Nos.608 and 689 of Varshakonda village, Ibrahimpatnam Mandal, Karimnagar District for providing house sites to the people of weaker sections. But the grievance of the petitioner is that the Government land is available in Survey No.570, and without considering the said contentions of the petitioner as to the availability of the Government land, the respondents have proceeded with the proposed acquisition. In fact, it is also the grievance of the petitioner that the respondents though originally proposed to acquire some other land referred to earlier, they have resorted to acquire the petitioner's land due to interference of the local M.L.A, which is evident from the proceedings of the 1st Respondent Dated 23.01.1991. Therefore, on that ground also, it is evident that the proposed action taken by the 1st Respondent is *mala fide* and is liable to be quashed.

7. The learned Government Pleader, on the other hand, sought to contend that no Government land is available in the village. But, a perusal of the counter affidavit clearly shows that there is no specific reference as to the non-availability or otherwise of the land in Survey No.570 of the said village. When it was not specifically denied, it is not open to the Government Pleader to contend that the land in the said Survey No.570 is not available.

8. Under the above circumstances, the impugned notifications Dated 29.09.1996, published in the gazette Under Sections 4 and 6 of the Land Acquisition Act are set aside. However, if the respondents require the land of the petitioner to be acquired, before proceeding to issue fresh notification to acquire the land of the petitioner, the respondents are obligated to enquire into as to the availability of the Government land in Survey No.570 or in any other survey number in the vicinity of the village and if no such

Government land is available, then only the respondents can proceed against the land of the petitioner.

Accordingly, this writ petition is allowed. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday , Sixteenth day of June, Two thousand and four.

ASSISTANT REGISTRAR

SECTION OFFICER

// TRUE COPY//

Dsr/Kvh.

To:

1. The District Collector, Karimnagar District,
2. The Sub-Collector, Jagitial, Karimnagar District
3. Two CCs to the Government Pleader(Social Welfare)
   High Court Buildings, Hyderabad (OUT)
4. Two CD copies.